

REMARKS

This is in response to the Office Action of November 3, 2006. Claims 1-12 are currently pending in the present application, wherein claim 1 is the only independent claim. In the Office Action, the Examiner (1) rejected claims 1-5 and 8-11 under 35 U.S.C. 102 (b) as being anticipated by Rath et al. (US 4,235,412); (2) rejected claim 6 under 35 U.S.C. 103 as being unpatentable over Rath in view of Baumdicker et al. (US 6,298,526); (3) rejected claim 7 under 35 U.S.C. 103 as being unpatentable over Rath in view of Takabayashi (US 4,038,726); (4) rejected claim 12 under 35 U.S.C. 103 as being unpatentable over Rath in view of Oh et al. (US 5,062,846). For the reasons set forth below, Applicants respectfully submit that the pending claims are neither anticipated nor would they have been obvious in view of the cited art.

Claims 1-5 and 8-11 Are Not Anticipated by Rath et al. (US 4,235,412)

First, Applicants turn to the rejection of claims 1-5 and 8-11 under 35 U.S.C. 102 (b) as being anticipated by Rath et al. In this reply, Applicants have amended claim 1 to more clearly distinguish over the cited Rath patent and respectfully submit that independent claim 1 and the respective dependent claims are not anticipated by Rath.

Specifically, amended claim 1 is directed to a flow control clamp comprising a flexible body having a first leg and a second leg disposed in a general facing relationship when in a first spaced apart position and in a second closed position, the legs being movable between the first and second positions. Amended claim 1 further requires a pair of apertures in the body for receiving a flexible tube therethrough. Finally, amended claim 1 requires at least one tube contacting member carried by one of the legs for clamping a tube when the legs are in the closed position. The first and

second legs are adapted to irreversibly secure the legs together in a closed position.

Applicants respectfully submit that the flow control clamp of amended claim 1 is neither shown nor suggested in the Rath patent for several reasons. First, Rath does not teach or suggest a flow control clamp comprising a flexible body having a first leg and a second leg disposed in a general facing relationship when in a first spaced apart position and in a second closed position as required by claim 1 of the present application. For example, as described in further detail in the specification and Figures of the present application, legs 36 and 38 are in a general facing relationship when in a first spaced apart position as shown in Figure 7. Also see specification page 6 para. 28 – page 7 para. 28. In contrast, Rath teaches a clamping device having first, second, and third body members which, in an unfolded position, the body members are disposed in a generally coplanar relationship. See Rath specification col. 1, lines 42-44 and col. 3, lines 17-20. It can also be seen in Figures 1 and 2 of Rath that when the device is in an unfolded (open) configuration, the body members lie flat, or coplanar, and not in a general facing relationship as required by claim 1.

Second, Rath does not teach or suggest first and second legs including surfaces disposed to irreversibly secure the legs together in a closed position. As described in further detail in the specification of the present application, “irreversibly” closed or closable means that the flow control clamp, once in the closed position, is not readily releasable from the closed position in the normal and intended mode of operation. An “irreversibly” closed or closable flow control clamp can only be released from the closed and locked position by extraordinary and unintended manipulation of the clamp, including breakage of the clamp. See, for example, specification pages 5-6.

In contrast, Rath teaches that body members 14, 16 and 18 can be moved from an unfolded position to a folded together position, wherein a tab bears against a shoulder and engages a lip when the folded position is reached. Rath then goes on to describe that manual displacement of the shoulder frees the tab of its snap-fit engagement with the lip and permits return of the body members to the unfolded position. See Rath col. 4, lines 35-44. Thus, it is clear that the body members in Rath are moveable between the open and closed positions, and, once in the closed position, they can be reopened without "extraordinary and unintended manipulation of the clamp, including breakage of the clamp." Thus, the body members of the Rath device are not irreversibly secure as required by claim 1.

For at least these reasons, Applicant respectfully submits that independent claim 1 and the respective dependent claims are not anticipated by the Rath patent.

Claims 6, 7 and 12 Would Not Have Been Obvious Over the Cited References

Next, Applicants turn to the rejection of dependent claims 6, 7 and 12 over Rath in view of the '526 patent to Baumdicker, the '726 patent to Takabayashi, and the '846 patent to Oh, respectively.

In this regard, Applicants note that Claims 6, 7 and 12 are dependent on claim 1. Applicants submit that, for at least the reasons stated above regarding claim 1, which are incorporated herein by reference, claims 6, 7 and 12 would not have been obvious in view of the cited references.


Information Disclosure Statement

A Supplemental Information Disclosure Statement is being filed with this response. Applicants also note that a previously submitted IDS citing reference EP 0799627, which was considered by the Examiner on October 25, 2006, contained a typographical error. The IDS incorrectly listed Balbo as the Applicant for EP 0799627. It is submitted that Hiroshi Takahashi is the correct inventor, with the correct Applicant being Piolax, Inc.

CONCLUSION

For the reasons described above, Applicants respectfully submit that claims 1-12 are novel and would not have been anticipated or obvious in view of the cited art. Applicants respectfully request that the claims be reconsidered and allowed.

Respectfully submitted,



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